

SPONSORING A MARRIAGE CASE: *HOW IT WORKS*

Pastoral situations involving marital status typically arise when divorced persons have remarried civilly or wish to remarry in the Church. The following is concerned with the *administrative and canonical* side of these situations. It does not address such aspects as pastoral counseling, sacramental absolution, or reconciliation with the Church.

The administrative/canonical procedure for resolving marital status involves both the divorced person and his or her *parish sponsor*. A parish sponsor is a member of the parish ministerial staff—clergy or lay—who assists persons in these cases.

In most cases, the person needing assistance will already be civilly divorced. *Never advise a married person, on your own, to get a divorce!* If the person you are assisting is still legally married and wishes to file a cause for nullity, please contact the Diocesan Tribunal for further assistance.

“Remarriage,” even after a divorce, is generally not an option. The Church teaches that marriage, by its very nature, is permanent and indissoluble (see cc. 1056 and 1096). Moreover, the indissolubility of a *sacramental* marriage (i.e., marriage between baptized persons) obtains a special firmness by virtue of the sacrament (c. 1056). Once consummated (i.e., after the spouses have had sexual intercourse), a valid, sacramental marriage cannot be dissolved by any human power (c. 1141).

Nevertheless, a divorced person *may* be able to enter into a new marriage, under certain circumstances, if it can be proven that the previous marriage:

- a. was never consummated;
- b. was not a sacramental marriage; or
- c. was not valid.

For example, if one of the spouses of the previous marriage was not baptized, it may be possible to obtain a dissolution of the previous marriage “in Favor of the Faith,” to permit the spouses to enter new marriages. Other cases may require an investigation into the validity of the previous marriage. In any case, the parish sponsor provides the appropriate forms for presentation to the Diocesan Tribunal and assists the divorced person in completing the forms.

Note: Please be sure you have the current form.

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Application for Marriage Investigation (pink form)

When in doubt as to his or her options, the divorced person may always begin the process by submitting an *Application for Marriage Investigation* (pink form). This is a four-page form covering general information about the parties and their marriage. It enables the Tribunal staff to identify possible grounds for dissolution or invalidity of the marriage. The form should be completed with the assistance of the parish sponsor.

The “Helps for Parish Sponsors” sheet, appended below, describes many of the possible grounds for dissolution or invalidity of a marriage. It should assist the parish sponsor in explaining to an applicant why certain questions are asked on the application form. A bibliography is also included for further reading.

Once completed, the application form must be signed and dated by both the applicant and the parish sponsor. The applicant submits the completed application to the Tribunal. Three documents are to be included with the application: the marriage certificate, the divorce judgment, and a recent baptismal certificate (for Catholic applicants). Please send original documents with raised seals if possible. (These will be returned at the end of the process.) The parish sponsor also completes the sponsor’s observation sheet and submits it to the Tribunal.

From that point, the Tribunal will oversee the investigation and processing of the case. A letter of acknowledgment of receipt will be sent to both the applicant and the parish sponsor. We will keep the parish sponsor informed of further developments and may periodically request his or her assistance in some aspects of the case.

Formal Cases

In cases requiring a formal investigation into the validity of a marriage, the Tribunal will ask the applicant to schedule an appointment at the Tribunal Office for an interview by a staff member. After the interview, the Tribunal will provide the applicant with a *libellus*, or petition, to be signed and dated. The applicant—now the “petitioner”—will also be asked to provide the names and addresses of witnesses. Once the *libellus* is accepted by the Tribunal, the case will proceed to trial.

Note: The Rochester Tribunal has competence to hear a cause for invalidity when either: (1) the marriage took place in the Diocese of Rochester, or (2) the applicant’s former spouse has residence in the Diocese of Rochester. In other cases, we must obtain permission to try the case from the diocese where the former spouse lives, provided the applicant lives in the Diocese of Rochester.

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Once the *libellus* has been formally accepted, the Tribunal will “cite” the parties and notify the parish sponsor. The *respondent* (petitioner’s former spouse) will be invited to participate in the process, to include the giving of testimony and listing of witnesses.

Note: The fact that a case has been accepted for examination by the Tribunal does not mean that the petitioner will receive a favorable decision. As with any judicial proceeding, the conclusions of the Judges must be drawn from the facts and evidence presented in the case.

It is important to keep in mind that NO DATE should be set for the proposed new marriage. There is no guarantee that this process will result in a declaration of invalidity. Nor is there certainty that any given case will be completed within a particular time frame. Please do not place yourself in the awkward position of having to “change” a date that should never have been set in the first place.

After the respondent has been given time to respond, the *joinder of issue*, or setting of “grounds,” takes place. This is a formulation of the question that needs to be resolved by the Court. For example: “*Is the marriage invalid under the provisions of canon 1095.2, a grave defect of discretion of judgment concerning the essential matrimonial rights and duties mutually to be handed over and accepted?*” The joinder of issue is based on whatever information has been provided to the Tribunal up to this point—usually, the petitioner’s and respondent’s testimony. It is here that the trial proper begins. The witnesses offered by the parties will now be contacted and their testimony added to the case.

After all available testimony and proofs have been gathered, they will be “published” to the parties. That is, the parties will be invited to inspect the case file at the Tribunal Office. (Don’t let a petitioner be alarmed by the word “publish”! Everything is still quite confidential.)

Finally, after the *Defender of the Bond* has submitted his or her observations in defense of the validity of the marriage, the trial will proceed to the Decision Phase. It is at this stage that the Tribunal Judges will determine whether or not the invalidity of the marriage has been proven. If the case receives an “Affirmative” decision from the Rochester Tribunal, it will automatically be submitted to the Interdiocesan Tribunal of the Province of New York for review.

Note: A party who disagrees with the Rochester Tribunal’s decision may appeal, either to the Interdiocesan Tribunal or to the Roman Rota.

Once an “Affirmative” decision has been confirmed by the Interdiocesan Tribunal of the Province of New York, a Decree of Invalidity is issued. The parties are now free to marry.

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Note: Occasionally, the Court will place a *restriction* on one or both of the parties before they can marry in the Catholic Church. A restriction may include a requirement for counseling or therapy. Restrictions are not punitive; their purpose is to enable the person to better prepare for a healthy marital relationship. The restricted party should contact the Tribunal Office for information on how to fulfill the terms of the restriction.